

Accordingly, independent claim 1 is allowable and withdrawal of the Examiner's prior art rejection thereto is respectfully requested. Claims 2-10 depend from claim 1 and therefore are also allowable. Therefore, withdrawal of the Examiner's prior art rejection of each of these claims is also respectfully requested.

Independent claim 20 recites "a switch that activates the communication base unit...and including a detect pin that projects outwardly from the communication base unit toward the ear mount." For the reasons stated above with respect to claim 1, Bodley et al. does not teach this limitation, and therefore, withdrawal of the prior art rejection of claim 20 is respectfully requested.

With respect to independent claim 21, this claim specifies "a circuit for short range communication with a primary communication device" and the steps of "turning the circuit off in response to the ear mount moving to a closed position wherein the ear mount is positioned against the base; and turning the circuit on when the ear mount moves to an open position with a portion of the ear mount spaced from the base" (emphasis added). As stated above with respect to claim 1, Bodley et al. does not teach turning on or turning off the communication circuit for the communication base unit using a switch that is responsive to the position of the ear mount. The switch 102 referred to on page three of the Examiner's Action is activated by the boom 2, not the ear hook 6 (see paragraph [0080]). As discussed above, modification of Bodley et al. to incorporate such a feature would destroy the desired function of allowing the communication unit to be worn on the left or right ear. Therefore, withdrawal of the prior art rejection of claim 21 is respectfully requested. Claims 22 and 23 depend from claim 21, and therefore, are also allowable. Withdrawal of the prior art rejection of claims 22 and 23 is respectfully requested.

Claims 4, 13 and 20 also define a detent mechanism for positioning and releaseably holding the ear mount in an open position and a closed position. Contrary to the Examiner's assertion, Bodley et al. does not teach this limitation. Bodley teaches a mechanism (see 144, 146, 148, 150) that biases the ear hook 6 into a closed position (see paragraph [0064]). Bodley et al does not teach a detent mechanism that holds the ear mount in an open position or in more than one position, as required by claims 4, 13 and 20. The Examiner asserts that Fig. 7 shows a detent mechanism that holds the ear mount 6 in a position at least 20-40 degrees away from the base. Fig. 7 does appear to show the ear hook in a position that is not flush against the communication base unit; however, there is no discussion in the specification and nothing in the

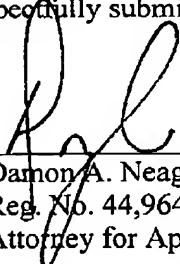
drawings to indicate that the detent mechanism 144, 146, 148, 150 holds the ear mount in this position. In fact, such a reading of Fig. 7 is contradicted by paragraph [0064]. Therefore, Bodley et al. does not teach this limitation of claims 1, 13 and 21, and therefore, this feature further defines these claims over the prior art of record.

In view of the foregoing, withdrawal of the prior art rejections and allowance of claims 1-23 is respectfully requested. Should the Examiner have any questions regarding this Reply, he is invited to contact the undersigned by telephone.

Respectfully submitted,  
MA

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